

BOARD OF PAROLE HEARINGS
Executive Board Meeting Minutes
Monday, September 16, 2013

Meeting Called to order at 1:08 p.m.

Roll Call: Commissioners Anderson, Fritz, Garner, Guerrero, Labahn, Montes, Peck, Richardson, Singh, Turner, and Zarrinnam were present. Commissioner Roberts was not present.

CONSENT CALENDAR

Comments and clarification regarding meeting minutes of August 19 and 20, 2013:

No comments.

Lifer Hearing Backlog Report: No comments.

Public comment on the Consent Calendar: No comments.

Commissioner TURNER made a motion to approve the consent calendar. The motion was seconded by Commissioner SINGH. The motion carried unanimously.

REPORTS AND PRESENTATIONS

Report from Executive Officer JENNIFER SHAFFER

SHAFFER introduced two new commissioners, Richard Guerrero and Elizabeth Richardson.

Proposed Regulations for Audio/Video Conferencing at Suitability Hearings:

SHAFFER discussed proposed procedures for audio/video conferencing at suitability hearings. She stated that this topic was introduced several months ago and the Board is now ready to distribute the proposed procedures for public input. The Board has purchased and distributed conference phones and most have installed at the facilities. SHAFFER distributed a handout with the Board's guidelines and asked the legal division to draft regulations governing audio and video conferencing. Attached to the guidelines is a form to be completed in advance of the hearing indicating a desire to appear at the hearing via audio/video conferencing.

Gate Clearance Procedures for Victims:

SHAFFER stated there appears to be a need to re-address gate clearance procedures for board hearing participants with CDCR. She will check with the institutions to insure that they are screening attendees in accordance with CDCR's operations manual. Relevant provisions of CDCR's operations manual were made available in a handout.

SHAFFER noted that anyone wishing to attend a hearing as a visitor or observer must obtain authorization in advance from the Executive Officer.

Update on Outreach:

SHAFFER gave an update on outreach efforts. Many meetings have been held regarding the board's process for administratively reviewing three-year denials. The District Attorneys are not in favor of the process and inmate attorneys are in favor of it. SHAFFER asked for continued input.

Other Topics:

On the topic of advisory committees, SHAFFER stated that because of factors such as turnover in Commissioners, the Board has temporarily stopped the committees and a further report on that matter would be provided next month. She welcomed feedback from the public regarding the advisory committee process.

SHAFFER provided an update on the *Valdivia* class action lawsuit. It is anticipated the court will dismiss the case. The plaintiffs will send out a notice to all involved.

Report from Chief Counsel HOWARD MOSELEY

Historical Review of Board Directives and Memoranda:

MOSELEY stated that the work of the “mini-manual” began with the Best Practices Committee. The Best Practices Committee did a great deal of work on this project.

Proposed Administrative Directive Regarding: In re Andrade (2006) 141 Cal.App.4th 807:

Staff Attorney KARA HOUSTON reported on Administrative Directive 2013-05, Special Parole Plan Considerations for Inmates Subject to Deportation. HOUSTON stated that an inmate with an immigration hold does not need parole plans in the U.S. if the probability of deportation is high. The administrative directive provided is a draft version. The final version will be presented next month.

Commissioner PECK stated that it could be problematic if the commissioners have to determine if there is a high probability that the inmate would be deported.

HOUSTON stated that with respect to countries that do not have an agreement with the United States, the probability would be low that the inmate would be deported.

Commissioner PECK asked if the commissioners will get a list of which countries do not have agreements with the United States.

SHAFFER responded yes.

MOSELEY indicated that there are at least 30 countries with which the United States does not have an agreement. Inmates from those countries would need to have California-based parole plans. He stated that he felt it was important to clarify that although there may be an immigration hold on an inmate, questions could still be asked about parole plans.

Commissioner GARNER stated that when they ask the inmate if they have spoken with any official regarding deportation they will learn if they have a high probability of deportation.

HOUSTON stated that if the inmate indicates he or she plans to contest being deported, they should have California parole plans.

Commissioner MONTES stated that if there was a medical issue involved, the inmate may be less likely to be deported. She questioned how the panel would know that information.

HOUSTON stated that Legal could look into that further, and MOSELEY indicated that if the inmate has a medical condition or if the inmate is contesting deportation, the panel has no way of determining what the deportation judge will do. If it is uncertain whether the inmate will be deported, the panel should ask for California parole plans. MOSELEY stated that this is a draft administrative directive and he welcomes input for the final version.

Update on the Long Term Offender Pilot Program, presented by Rodger Meier, Chief of In-Prison Programs, CDCR Division of Adult Institutions:

RODGER MEIER presented on the long term offender program. Reports were distributed to the commissioners showing what type of programming is happening in the institutions. There is an updated matrix of what is available at all of the institutions.

Commissioner ANDERSON stated that they have been told that some programs are not available to lifers.

MEIER indicated that lifers are low priority on some of the lists because some certificates have a short amount of time for which they are valid.

Commissioner ZARRINNAM asked if there was any distinction between a new lifer and someone who has met his minimum eligible parole date.

MEIER indicated that there is re-entry hub criteria to be met.

Commissioner MONTES asked if he was speaking of determinate incarceration.

MEIER stated that re-entry hubs were designed for determinately sentenced inmates, not lifers. He stated that the programs are designed specifically for determinately sentenced inmates.

Commissioner FRITZ asked about the wait list for some inmates to get into programs.

MEIER stated that the voluntary education program is 120 inmates to one teacher, so it accommodates quite a few inmates at one time.

Commissioner FRITZ stated that many institutions have over 100% enrollment and asked if that meant there were wait lists.

MEIER answered that there are more inmates than budgeted slots. For example, the substance abuse program is being ramped back up and they had more participants than budgeted slots.

Commissioner FRITZ asked how commissioners would know which institutions have wait lists.

MEIER indicated that they can pull-up the information by institution.

Commissioner PECK asked how an inmate who has an idea for a program could go about getting it started.

MEIER indicated that they go through NATALIE FRANCHEN and in-house staff for the program to be reviewed and approved.

Commissioner PECK asked if that process was a statewide process, or whether it applied to individual institutions.

MEIER indicated that a proposed program would be explored if there were enough volunteers to handle it, and depending on whether the particular institution could accommodate the program.

MEIER stated that the department proposed developing a program model that would target lifers. They are going to introduce cognitive type programs. They hope to start out with four institutions to test it out. It was researched as to when would be the best time to start programming and it was determined that eight years into the sentence was the timeframe indicated by former inmates.

Commissioner TURNER asked if all inmates go through all programs.

MEIER indicated that it depends on their individual needs.

Commissioner PECK asked how the inmates are evaluated.

MEIER indicated that they are identifying potential participants through assessments.

MEIER reported that courses on family relationships are also offered. They include parenting, domestic violence, and reunifications, among other focus areas.

MEIER stated that the victim impact program is two months long, and 3.25 hours per day twice per week.

MEIER indicated that invitations for bids went out on September 5th and they anticipated starting the development of the pilot program in January 2014. They have developed a questionnaire to go to the inmates and are identifying potential participants.

Commissioner MONTES asked about the vision for the program.

MEIER indicated that they were looking at short term, mid, and long term benefits. DAPO is already looking at having parole agents assigned to lifer-only caseloads.

Commissioner MONTES also noted that there are frequently mental health issues that need to be addressed. She also wanted to know if there was any program focusing on employment.

MEIER indicated that they will consider expanding the program, but they need the space and the funds. MEIER concluded his presentation.

MOSELEY requested that the matter of Richard Churchwell, T-44518, and whether there exists a need to take immediate action pursuant to Government Code section 11125.3, be heard prior to the report by the commissioners. SHAFFER indicated that there must be a 2/3 vote to be able to place this matter on tomorrow's agenda.

DISCUSSION ITEM

Commissioner ANDERSON stated that the discussion item for Richard Churchwell (T-44518) was to determine whether there exists a need to take immediate action.

MOSELEY explained that the inmate received a grant of parole in July 2012, and that on September 11, 2013, a request for en banc review was submitted by the Governor. The referral was received less than 10 days before the Board meeting, necessitating the action pursuant to Government Code section 11125.3.

STEVE KATZ, Los Angeles County District Attorney, thanked the Board for taking the matter out of turn as he had another appointment. He stated that he believed that the level of risk that would be posed should this inmate be released was great. He stated that the inmate committed these crimes only 13 years ago and that the inmate is now in his mid 60's. He stated that the inmate is a sex offender and he does not believe the inmate should be released into society. He stated that at his hearing he showed his arrogance, refusal to participate in any programs, and continued blame of the victim. He believes that the inmate feels he is above the law. He believes the inmate would pose an unreasonable risk if released on parole.

VANESSA NELSON-SLOANE, Life Support Alliance, questioned why this matter had to be put on so quickly.

MOSELEY explained that the matter is more timely heard in September rather than in October.

A motion was made by Commissioner LABAHN that the matter be brought before the Board because it is in need of immediate attention. Commissioner ZARRINNAM seconded the motion. The motion carried unanimously.

Commissioner ANDERSON stated they would now go back to the commissioners' report on the tours of transitional housing facilities.

Report from Commissioners Regarding Tours of Transitional Housing Facilities:

Commissioner MONTES explained why there is a need to visit the transitional housing facilities. She stated that this was a good opportunity for commissioners to go out and see the actual facilities and that most of the commissioners have had a chance to visit at least one facility. The second part of the goal was not just to visit, but to bring back the information that they learned about each facility. She suggested that the topic should be tabled until next month to give the commissioners an outline for their reports so that each can share the same sort of information.

SHAFFER asked if she could get a copy of Commissioner MONTES' outline. SHAFFER stated that this would be an ongoing process so some commissioners could speak now or wait.

Commissioner ZARRINNAM stated that he and Commissioner GUERRERO visited the Clare Foundation in San Diego. He described the facility and type of programming. Commissioner GUERRERO stated that he was impressed with the people running the program and the cleanliness of the facility. He was overall very impressed.

Commissioner TURNER stated that she visited the Restoration House. She stated the facility had seven beds, three of which were for lifers. She stated the facility was clean and felt it was a good visit. She was impressed.

OPEN COMMENTS

BPH Commissioners - Agenda Items for Future Meetings: None.

Public Comments

LAURA ROMERO stated this was a special day because it was the 16th anniversary of the incarceration of her son. She believes he has matured in prison. She wanted to know if there is any difference in programs that are offered. Her son told her that when the commissioners come to interview the inmates no one told him what information or plans that they need to have when they go to their hearings.

VANESSA NELSON-SLOAN, Life Support Alliance, stated that during last month's discussion regarding the review of three-year denials she indicated that she would tell the inmates about the review. They have received a flurry of questions on the review and PTA's.

The meeting recessed at 2:33 p.m., until Tuesday, September 17, 2013.

**BOARD OF PAROLE HEARINGS
Executive Board Meeting Minutes
Tuesday, September 17, 2013**

Meeting reconvened from Monday, September 16, 2013, at 10:08 a.m.

Roll call: Roll call not taken, but all twelve commissioners were present.

EN BANC REFERRALS

Recall and Referral for Resentencing, pursuant to Penal Code section 1170(e).

A. CARDIN, LUIS C35792

SIFREDO AGUIRRE, brother of the inmate. He spoke through an interpreter. He apologized to the victim and stated he will help his sister with the inmate who is ill.

ANA AGUARI, sister of inmate. She spoke through an interpreter. She also apologized for the mistakes of the inmate. She supports her brother who is dying of cancer. She stated she will take care of him in her house and asks that he be allowed to come home so she has the opportunity to take care of him.

ALEXIS de la GARZA, Los Angeles County District Attorney's Office, stated that in these types of cases they are hampered because they do not have any medical information on the inmate. She is concerned that the inmate did not do any self help with regard to the sexual component of the crime. She stated that there is also an ICE hold on this inmate and he would probably be deported to Mexico should he be paroled.

B. CHAPLIN, MARVIN E20848
No speakers

C. DANA, ROBERT B81537
No speakers

D. GILLIS, THORNTON

AD9072

GLORIA GILLIS, wife of the inmate, stated that the inmate is seriously ill. She stated that he is a good religious and family man. She spoke of all his good qualities. She stated that his case was presented last year and denied but they now have a residence that is in accordance with Jessica's Law. She requested compassionate release.

TRACY GILLIS was called upon but she declined to speak.

CLYDE GRANGER, friend of the inmate, acknowledged the difficulty that the Board has in making its decision. He saw the inmate three weeks ago and says that the inmate is in bad shape. He does not believe that the inmate is a threat to anyone. He would be going to a remote location. Only those who will assist him will be there.

MELODY GOELLNER, friend of the inmate, stated she met him at a chiropractic office and he befriended her through her divorce. He helped her raise her kids and buy her home. She believes that the inmate is no danger to anyone. She promised to help the inmate in any way needed.

STEVEN DUNKLE, attorney representing the inmate, stated that this is the inmate's second appearance before the Board for a compassionate release. He stated that the inmate is very ill, is bed ridden, and is receiving 24-7 care. He stated that the inmate's wife has arranged hospice through the Veterans Administration. He stated that they now have a residence for the inmate in the middle of the desert. The inmate's family is willing to take care of him at their expense, not the state's expense.

ANTHONY HOLDER, friend of the inmate, stated that he has known the inmate for 15 years and he sees the inmate as a father figure. He supports the inmate's release.

E. LOPEZ, RODNEY

G15740

Removed from agenda.

Referral by Chief Counsel pursuant to California Code of Regulations, Title 15, section 2042.

F. CHIAMULON, RICHARD

V48226

ALEXIS de la GARZA, Los Angeles County District Attorney's Office, asked the Board to consider many facts in making the determination to allow parole to this inmate. She asked that they read the record and consider the planning of the crime and the kidnapping. She stated that the inmate was angry and he planned to sabotage the business and kidnap the manager. She opposed release.

Referral by the Governor for review of parole decision by the full Board.

G. HERNANDEZ, PETE
No speakers

E78406

H. LUND, RONALD

C66744

PETER KIM, Riverside County District Attorney's Office, stated that the inmate continues to shift blame to his crime partner and believes that the inmate is still a risk. The inmate still refuses to say why he committed the crime. There are numerous inconsistencies and the inmate is not honest. He asks the panel to review the decision and deny the grant of parole.

Additional Item to be Considered:

CHURCHWELL, RICHARD

T44518

Executive Officer SHAFFER explained that Richard Churchwell, T44518, was placed on the calendar after the agenda was already posted and the Board has approved taking immediate action.

STEVE KATZ, Los Angeles County District Attorney's Office, expanded on comments he made at yesterday's board meeting. He is opposed to the inmate's release and fully supports the Governor's position. He stated that the inmate has not done anything to rehabilitate himself during his years in prison. The inmate has never admitted any guilt or remorse and he has denied any wrongdoing in the life crime. The inmate committed a very violent crime and he has not changed and still maintains his innocence. This inmate still remains a very dangerous man.

REPORT AND PRESENTATION

**Introduction of Revised Rescission Hearing Procedures, presented by Chief Counsel
HOWARD MOSELEY**

MOSELEY gave a summary of the rescission process. Five flow charts were distributed to the commissioners and available for the public. MOSELEY provided an overview of the five charts. He stated that during the upcoming October training they will do a further in-depth training in both open and closed sessions.

SHAFFER commented that the most significant departure is the bifurcation from the suitability process, the fact-finding to determine if the allegations are true. The victim's next-of-kin will not have to be involved in the process of the fact-finding, but would be involved if the allegations were found to be true and there was later a hearing to determine the inmate's suitability for release.

MOSELEY encouraged feedback from everyone for the improvement of the draft charts on the rescission process.

Commissioner ZARRINNAM had questions on charts 1 and 2 regarding the heightened standard.

MOSELEY explained and stated that it will be covered in-depth during the October training.

DISCUSSION ITEM

Administrative Directives on Waivers, Stipulations, and Postponements, presented by Katie Riley, Senior Staff Attorney

RILEY stated that copies of the administrative directives were supplied at yesterday's Board meeting. She was presenting today for final approval on the three administrative directives, 2013-03A, B, and C. There was only one minor change to part A which was based on feedback from Commissioner MONTES. It was a minor clarification.

Regarding 2013-03B, this is already in existence as 2013-03 and was already approved. No changes have been made to that portion.

Regarding 2013-03C, relating to prehearing requests for postponements, it was clarified that the inmate must sign the form. This clarification was in response to a comment by Commissioner LABAHN. The Prison Law Office asked that they be allowed to speak with the inmate prior to submitting the request and staff added language that the inmate attorney does need to meet with the inmate to discuss the continuation, either in person, by phone, or through written communications.

RILEY indicated that training on the new administrative directives will be held in October.

Commissioner ANDERSON asked if the stakeholders will get copies of the directives.

MOSELEY stated that once the Administrative Directives are approved, they will be available on the website.

Commissioner MONTES made a motion to approve Administrative Directives 2013-03A, 2013-03B and 2013-03C.

Commissioner ROBERTS stated that the current 2013-03 Administrative Directive will need to be rescinded.

Commissioner MONTES modified her motion to rescind the previous Administrative Directive 2013-03. Commissioner LABAHN seconded the motion. The motion carried unanimously.

OPEN COMMENTS

BPH Commissioners - Agenda Items for Future Meetings: None.

Public Comments

GAIL BROWN, Life Support Alliance, spoke positively about the presentation by Rodger Meier the previous day on the Long Term Offender Pilot Program.

VANESSA NELSON-SLOANE, Life Support Alliance, spoke about the Long Term Offender Pilot Program and questioned what programs were available to lifers. She was supportive of the commissioners visiting the different facilities available to lifers upon parole.

CHRISTINE WARD, Executive Director for Crime Victims Action Alliance, spoke regarding the audio/video conferencing suggestion and indicated that she has problems with the fact that the form needs to be signed and returned within a certain amount of time. She felt that this may hinder victim's next-of-kin attendance. An example is where a plane is late or cancelled and they are unable to physically attend, the time would have passed to request an appearance via telephone. This could greatly hinder a victim's ability to attend a hearing. She also feels there are constitutional issues.

Ms. Ward also stated that public and verbal comments are given immediately prior to the Board voting. She proposed that the administrative directives be posted and then discussed at the hearing, but not voted on until the following board meeting to allow time to digest all the information that has been provided. She also suggested moving public comment to the beginning of the Board meeting.

Meeting adjourned at 11:30 a.m.

Board of Parole Hearings
Scheduled and Backlog Hearings Report
Penal Code section 3041(d)
October, 2013

